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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,005	08/17/2004	Jack Kloutz	10885.3801	5004
22235	7590	09/07/2005	EXAMINER	
MALIN HALEY AND DIMAGGIO, PA 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			LEUBECKER, JOHN P	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/711,005

Applicant(s)

KLOOTZ, JACK

Examiner

John P. Leubecker

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amelio et al. (U.S. Pat. 5,647,840) in view of Thompson (US 2002/0028986) and further in view of Yarush et al. (U.S. Pat. 6,692,432).

D'Amelio et al. disclose an endoscope comprising a straight, elongated, rigid hollow outer tube (32); a coaxial smaller inner tube (74, Fig.7); one or more optical lenses disposed within said inner tube forming an optical path allowing human observation from a proximal end of said tube to a distal end of said tube (80,130, Fig.7); an eyepiece for human observation mounted at the proximal end of said tube (66, Fig.2); a light source (col.14, lines 7-15); a mounting block (124, Fig.7) for mounting said light source substantially perpendicular to said elongated rigid tube; a fiber optic bundle (120) to receive light for transmission therethrough, said fiber optic bundle having a portion connected and surrounding said inner tube and said lens optical path within said inner tube (col.14, lines 7-15, Fig.7), said fiber optic bundle having a second light emanating end mounted at the distal end of said tube for an illumination pattern emanating from the distal end of said tube (Fig.8) and a power source (inherent for the disclosed light source described in col.14, lines 7-15).

D'Amelio et al. discloses a light post (52) for connection to a conventional light source that transmits light through an optical fiber guide that attaches to the light post (col.14, lines 7-15). Thus, D'Amelio et al. fails to disclose a light source comprising an LED light housing including an LED light source mounted within said LED light housing. Thompson discloses a light source (30) for attachment to a light post (18) of an endoscope which includes a housing (32) including an LED light source (34, [0039]). Note that power can be supplied by a conventional power source or a battery ([0042]). Thompson explicitly teaches use of such LED light source is desirable over conventional light sources with optical fiber guides (Fig.1 of Thompson) since such prior art light sources impede maneuverability and make the endoscope less portable ([0029]). For these reasons, it would have been obvious to the skilled artisan at the time of the invention to have used the LED light source as taught by Thompson in place of the conventional one used with the D'Amelio device.

Even with this obvious modification, the D'Amelio et al./Thompson device fails to disclose the particulars of the light coupling between the light source (34) and the optical fibers in the light post (18) and thus fails to disclose that the LED light source abuts the optical fiber bundle. However, Yarush et al. explicitly teaches abutting a light source and optical fiber proximal end to concentrate the emitted light into the fiber bundle (col.15, lines 41-43). It would have been obvious to the skilled artisan at the time of the invention to have positioned the LED light source and optical fiber bundle in the D'Amelio et al./Thompson device so as to be in abutting relationship to decrease the dissipation of light upon leaving the bulb, thus concentrating more light into the optical fiber bundle.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wallace (3,261,349)—one of many teachings of a conventional endoscope having lens image transmission with outer concentric optical fiber illumination and perpendicular light post.

Marcatili et al. (U.S. Pat. 4,019,805)--note teaching to abut LED and optical fiber for more efficient light coupling.

Daniel (U.S. Pat. 4,241,382)—note abutting light source and optical fiber bundle.

Koeda et al. (U.S. Pat. 6,007,485)—note teaching to abut light source with optical fiber bundle.

Alaybayoglu et al. (U.S. Pat. 4,823,244)—note teaching to use a portable light source assembly.

Suzuki et al. (US 2002/0089586)—note Figure 12 with respect to LED illumination.

Irion (US 2002/0120181)—note Figure 2.

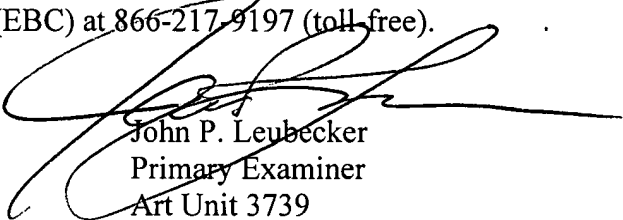
Roberts et al. (US 2004/0186352)—note LED/fiber illumination with abutting fiber.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P. Leubecker
Primary Examiner
Art Unit 3739

jpl